

submitted a letter to the Court “waiv[ing] the right to challenge the redactions and withholdings in the production to date” and stating, among other things, that the Court “may ... close the case” following briefing on “adequacy of search.”¹

Pursuant to the briefing schedule, FDA will submit its motion for summary judgment regarding adequacy of the search on October 17; PHMPT will submit its cross-motion for summary judgment regarding adequacy of the search and opposition to FDA’s motion on November 7; FDA will submit its reply in support of its motion and opposition to PHMPT’s cross-motion on November 21; and PHMPT will submit its reply in support of its cross-motion on December 5.

Given that the parties are now at the summary judgment briefing stage, the parties respectfully request that the Court relieve them of the obligation to continue to file joint status reports at regular intervals. Absent such an order, the parties intend to submit another joint status report within 90 days, *i.e.*, by January 13, 2025 by 6:00 p.m. Eastern Standard Time.

¹ In that letter, PHMPT stated its view that any of its individual members may later submit a new FOIA request to FDA to “challenge a redacted or withheld document from this production,” which FOIA request would “go through the normal administrative course.” The letter also stated that, “[s]hould the administrative process not provide the desired outcome, that member may then litigate to challenge the redactions or withholdings in a separate litigation from the instant litigation.” FDA reserves the right to process any future FOIA requests according to its normal processes and to assert any legal or equitable defenses that it determines at the time are applicable, including, for example, on the basis that the requester is estopped from pursuing information/claims that were waived in the instant litigation and arguments with respect to standing.

Dated: October 15, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2024, I electronically transmitted the foregoing to the parties and the clerk of court for the United States District Court for the Northern District of Texas using the CM/ECF filing system.

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